

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2013070349
WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013070340 ORDER GRANTING MOTION TO CONSOLIDATE

On July 9, 2013, West Contra Costa Unified School District (District) filed a request for due process hearing in OAH case number 2013070340 (First Case), naming Student's parent on behalf of Student (Student).

On July 10, 2013, Student filed a request for due process hearing in OAH case number 2013070349 (Second Case), naming the District.

On July 18, 2013, the parties filed a joint motion to consolidate the First Case with the Second Case and to continue the due process hearing.

DISCUSSION

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the First Case and Second Case involve common questions of law or fact regarding the appropriateness of the District's assistive technology (AT) assessment and the

request by Student's parents for an independent educational evaluation in the area of AT. Consolidation of these two cases would further the interests of judicial economy, prevent witnesses from having to testify twice, and prevent the possibility of inconsistent verdicts. Accordingly, consolidation is granted.

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

It is not clear from the papers submitted by the parties whether they are seeking to have the hearing dates in the two cases moved to the date of the hearing currently set in the Second Case (case number 2013070349) or whether the parties are seeking later dates for the hearing. If they are seeking the latter, they did not provide any proposed dates in their papers, except a request for mediation to be held on August 6, 2013.

Under these circumstances, it is appropriate to vacate the dates previously set in the First Case, to vacate the mediation date set in the Second Case, to set a mediation date for August 6, 2013, and to move the remaining dates in the First Case to the dates currently set in the Second Case. If the parties intended to request a continuance of all the dates in both cases, the parties should submit a motion or stipulation to OAH with proposed new dates that are agreeable to both parties.

ORDER

1. The parties' joint motion to consolidate is granted.
2. All dates previously set in OAH Case Number 2013070340 [First Case] are vacated. The hearing and prehearing conference dates in the First Case are continued to the dates set in the Second Case. The dates for the consolidated case shall be as follows:
 - Due process hearing: September 4, 2013, at 9:30 a.m.
 - Telephonic prehearing conference: August 26, 2013, at 3:00 p.m.
 - Mediation: August 6, 2013, at 9:30 a.m.
3. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2013070349. [Second Case].

Dated: July 18, 2013

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings